

DRAWINGS

Please amend the drawings as follows:

In FIG. 1, amend "1" to be "12". A replacement sheet is attached.

In FIG. 2, the box indicated by numerals 42 and 52 has been deleted. A replacement sheet is attached.

REMARKS

Claims 1-18 are pending in the present application. Claims 1-18 have been rejected. FIGS. 1 and 2 have been amended to correct typographical errors. The specification has been amended to correct typographical errors. Claims 1, 4-5, 7-8, 10-13, and 17-18 have been amended. Claims 14-16 have been cancelled. New claims 19-27 have been presented. The specification has been amended. No new matter has been introduced by these amendments. Reconsideration and withdrawal of the rejections is respectfully requested in light of the remarks presented herein.

Objections to the Drawings

FIG. 1 has been amended to replace "1" with "12". A replacement sheet is attached.

FIG. 2 has been amended to delete the box indicated by numerals 42 and 52. A replacement sheet is attached.

The specification has been amended. Paragraph 33 has been amended to correct a typographical error. In the second sentence, "candy 28" has been amended to "candy 2818". Paragraph 38 has been amended to correct a typographical error. In the second sentence, numerals "32" and "34" have been added. Paragraph 43 has been amended to correct a typographical error. Numeral "47" has been amended to be "28, 30."

The 35 U.S.C. §102(e) Rejections

Claims 1-7 and 9-17 have been rejected under 35 U.S.C. § 102(e), as being anticipated by Durbin (U.S. Patent No. 5,339,250). Applicant respectfully disagrees with the Examiner's contentions.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

The Durbin reference discloses a hotel vending network that includes a central control at the hotel main desk and a vending unit in each hotel guest room. The microprocessor controlled

vending units include a display arrangement for displaying prices of articles to be vended and a user allocatable keyboard for use in article selection and final purchase from the vend unit. Each purchase is a cooperative action between the central control and a vend unit and is completed by an acknowledgment signal from the vending unit which signal is required before actual billing of a vended article occurs. The keyboard is also used to control service access to the vending unit by means of passwords assigned from the central control. (Durbin reference, Abstract) The keys of the keyboard are pressed by a potential purchaser during a vending sequence and are pressed by service personnel to gain internal access to the vending unit. (Durbin reference, Col. 5, lines 3-7) The Durbin reference teaches the use of the keyboard for a purchaser to gain access to a purchase from the vending machine. The Durbin reference does not teach as claimed in the present application.

Claim 1, as amended, recites "...a withdrawal of product units from the vending machine is dependent upon a room key or member card being read by a card reader in the vending machine...", Claim 12, as amended, recites "a withdrawal of product units from the vending machine is dependent upon a room key being read by a card reader in the vending machine", and new Claim 25 recites "...inserting a room key in a vending machine coupled to a control central remotely located from the vending machine; reading with a card reader the room key inserted in the vending machine..." The Durbin reference does not disclose that any withdrawal of any product units from the vending machine is dependent upon a room key (or member card) being read by a card reader in the vending machine.

The Durbin reference requires the individual customer to input a code into the keyboard in order to purchase an item. This requires a customer to remember a code, which makes the Durbin reference machines not very user friendly.

In contrast, the present invention allows for use of the room key or member key to be utilized in order to make purchases. The present invention is more user friendly and does not rely on the memories of the customers. The Durbin reference does not teach as claimed.

The Durbin reference does not teach as is claimed in Claims 1, 12, and 25. Since the Leggiere reference does not teach all the elements of Claims 1, 12, and 25, Claims 1, 12 and 25 are not

anticipated by the Durbin reference. Further, any claims depending upon Claims 1, 12, and 25 that are not anticipated by the Durbin reference, are also not anticipated by the Durbin reference.

Reconsideration and withdrawal of this rejection is respectfully requested.

Further remarks regarding the asserted relationship between Applicant's claims and the prior art are deemed not necessary, in view of the foregoing discussion. Applicant's silence as to any of the Examiner's comments is not indicative of acquiescence to the stated grounds of rejection.

The § 103(a) Rejections

Claims 8 and 18 stand rejected under 35 USC § 103(a) as being unpatentable over Durbin (U.S. Patent No. 5,284,482) as applied to Claims 1-7 and 9-17, and further in view of Tomassi (U.S. Patent No. 6,711,465). Applicants respectfully disagree with the Examiner's assertions.

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). See also *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734, 82 USPQ2d 1385, 1391 (2007) ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.")

As indicated above, the Durbin reference fails to disclose all the elements of the claimed invention. Claims 1-7 and 9-17 are not anticipated by or obvious over the Durbin reference. Further, Claim 19-27 are not anticipated by or obvious over the Durbin reference. If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Therefore, dependent Claims 8 and 18 are also not obvious over the Durbin reference.

The Tomassi reference discloses a vending machine system in which customers are provided with identification cards having statistical information regarding the age of the card owner. Also contained on the card is data corresponding to a biometric characteristic of the card owner. The vending machines are provided that contain card readers and biometric characteristic verifiers.

When a customer wants to use the vending machine, that customer inserts their identification card into the vending machine. That customer also subjects themselves to a biometric scan from the biometric characteristic verifier contained within the vending machine. The vending machine reads both the statistical age information from the identification card and the biometric characteristic data. A systems processor in the vending machine compares the biometric characteristic data on the identification card with the biometric characteristic data just gathered. (Tomassi reference, Abstract)

The Tomassi reference teaches the use of an identification card having statistical information regarding the age of the card owner and data corresponding to a biometric characteristic of the card owner. The Tomassi reference requires the use of the identification cards with a biometric scan for the vending machine to operate. (Tomassi reference, Col. 3, line 63 to Col. 4, line 7) To combine the Tomassi reference with the Durbin reference would change the principle of operation of the Durbin reference. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

The Durbin reference utilizes a keyboard for inputting a code that is coupled with a central control to verify the code. The Tomassi reference utilizes a card that retains specific biometric data about an individual that is verified at the vending machine by a biometric scanner. The Tomassi reference vending machine is a self contained unit, to utilize the card reader coupled with the biometric scanning function would change the principle of operation of the Durbin reference. The Durbin reference requires the use of the central control to verify the information input by the customer on the keyboard.

The combination/modification suggested by the Examiner in the obviousness rejection is impermissible since it changes the principal of operation of the Durbin reference. Therefore, the teachings of the combination of the Durbin and Tomassi references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led

in a direction divergent from the path that was taken by the applicant. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant. *In Re Gurley*, 31 USPQ 2d, 1130, 1131 (Fed. Cir 1994.) See also *United States v. Adams*, 338 US 39, 52, 148 USPQ 479, 484 (1966).

Both the Durbin reference and the Tomassi reference teach away from the combination of the two references as suggested by the Examiner. The vending machine of the Durbin reference relies on the control central to verify the information of the customer. In contrast, the vending machine of the Tomassi reference is self-contained – all the information necessary to complete the purchase is contained in the card and verified by the biometric scanner in the vending machine. The use of the vending machine in the Tomassi reference teaches away from the use of the vending machine of the Durbin reference. One skilled in the art would not look to the combination of these two references to arrive at the invention of the present application.

Therefore, in light of the above arguments, independent Claims 1, 12 and 25 are non-obvious. If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Therefore, Claims 2-11, 13, 17-24, and 26-27, depending from non-obvious independent Claims 1, 12, and 25, are then also non-obvious.

Reconsideration and withdrawal of this rejection is respectfully requested.

Further remarks regarding the asserted relationship between Applicant's claims and the prior art are deemed not necessary, in view of the foregoing discussion. Applicant's silence as to any of the Examiner's comments is not indicative of acquiescence to the stated grounds of rejection.

References of Interest

The prior art made of record, and not relied upon, is believed to comprise general information that does not render the present application anticipated or obvious.

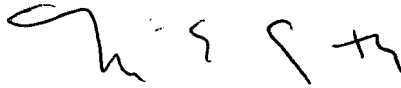
Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,

TOBIN CARBERRY O'MALLEY RILEY SELINGER, P.C.



Dated: September 25, 2007 Nicole E. Coppes-Gathy
Reg. No. 46,640

NEC:ska

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail having Express Mail No. EQ 185482913 US in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 25, 2007.

Signed:


Sarah K. Ackley